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Attorneys for Defendant APPLE INC.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

EPIC GAMES, INC.

Plaintiff, Counter-defendant  
v.

APPLE INC.,

Defendant, Counterclaimant

Case No. 4:20-cv-05640-YGR-TSH

**DECLARATION OF MARK A. PERRY IN  
SUPPORT OF APPLE INC.'S STATEMENT  
IN SUPPORT OF ADMINISTRATIVE  
MOTION TO SEAL**

The Honorable Thomas S. Hixson

1 I, Mark A. Perry, hereby declare as follows:

2 1. I am an attorney licensed to practice in the State of California, and a member of the Bar  
3 of this Court. I am a partner at the law firm Weil, Gotshal & Manges LLP, counsel of record for Apple  
4 Inc. (“Apple”) in this case. I am familiar with Apple’s treatment of highly proprietary and confidential  
5 information based on my personal experience representing Apple. I have personal knowledge of the  
6 facts stated below and, if called as a witness, would testify competently thereto. I submit this declaration  
7 in support of Apple’s Statement in Support of Administrative Motion to Seal.<sup>1</sup>

8 2. I am aware that the law of this Circuit allows information to be filed under seal for good  
9 cause or in certain compelling circumstances. I also understand that courts routinely seal filings where  
10 documents include a company’s trade secrets, internal codenames, confidential research and  
11 development, personally identifiable information, or other commercially sensitive information. I  
12 understand that this Court has broad latitude to prevent the public disclosure of these categories of  
13 commercially sensitive information.

14 3. Apple operates in an intensely competitive environment. Apple has serious and  
15 legitimate concerns that competitors will be quick to capitalize on any release of Apple’s highly sensitive  
16 information in order to gain competitive advantage. As such, Apple takes extensive measures to protect  
17 the confidentiality of its information.

18 4. Apple has carefully reviewed the exhibit to Epic Games, Inc.’s Administrative Motion to  
19 Consider Whether Another Party’s Material Should Be Sealed Pursuant to Civil Local Rule 79-5 (“Epic’s  
20 Motion”), Dkt. 1192, and now proposes to partially seal information therein that, if disclosed, could  
21 harm Apple’s competitive business interests and reveal personally identifiable information. Specifically,  
22 Apple seeks to partially seal Exhibit A.

23 5. Apple seeks to partially seal Exhibit A to Epic’s Motion because the document contains  
24

25  
26 <sup>1</sup> Courts in the Ninth Circuit routinely grant motions to seal based on declarations of counsel. *See*,  
27 *e.g.*, *In re Apple Securities Litigation*, 19-cv-02033-YGR, Dkt. 223 (N.D. Cal.); *In re Qualcomm Litig.*,  
No. 17-cv-00108-GPC, Dkt. 398-1 (S.D. Cal. Mar. 26, 2018); *Avago Techs. U.S. Inc. v. Iptronics Inc.*,  
No. 10-cv-02863-EJD, Dkt. 544 (N.D. Cal. Apr. 3, 2015); *Cisco Sys., Inc. v. OpenTV Inc.*, No. 13-cv-  
00282-EJD, Dkt. 76 (N.D. Cal. Oct. 8, 2013). If the Court deems this declaration insufficient, Apple  
28 respectfully requests that it be permitted to file a further declaration supporting filing under seal.

competitively sensitive, non-public information regarding Apple's engagement of outside counsel and consultants in connection with this litigation, as well as Apple's use of certain confidential codenames related to new product developments. Public disclosure would reveal Apple's internal business and legal decision-making, which could be used by competitors to gain an unfair competitive advantage over Apple. Exhibit A also contains personally identifiable information in the form of email addresses of Apple employees. Apple has narrowly-tailored its sealing request as to maximize the public's access to court documents without jeopardizing Apple's business interests. The remainder of Exhibit A remains unredacted.

6. Below is a chart detailing the portions of the exhibits sealable for the reasons explained herein, as well as in Apple's statement.

Portion of Document Sought to be Sealed	Document Title	Reason to Seal
Redacted email addresses and project codenames in "Predominantly Non-Legal Emails"	Exhibit A to Epic's Motion	Reflects non-public Apple business strategy and personally identifiable information
Redacted email addresses and outside counsel/consultants in "Documents Similar to Documents the Court Has Already Deemed Not Privileged"	Exhibit A to Epic's Motion	Reflects non-public Apple legal strategy and personally identifiable information
Redacted email addresses in "Documents Epic Previously Challenged"	Exhibit A to Epic's Motion	Reflects personally identifiable information
Redacted email addresses and project codenames in "Documents Related to Communications or Press"	Exhibit A to Epic's Motion	Reflects non-public Apple business strategy and personally identifiable information
Redacted email addresses and project codenames in "Business Presentations"	Exhibit A to Epic's Motion	Reflects non-public Apple business strategy and personally identifiable

Portion of Document Sought to be Sealed	Document Title	Reason to Seal
		information

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this 18th day of February 2025, in Oakland, California.

Dated: February 18, 2025

Respectfully submitted,

By: /s/ Mark A. Perry

Mark A. Perry